

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CLIFTON B. HENNINGTON, #2069964

Plaintiff,

v.

KEITH GORSUCH, ET AL.,

Defendants.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 6:20-CV-00302-JDK

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This action was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On November 28, 2022, the Magistrate Judge issued a Report and Recommendation recommending that Plaintiff's claims against Defendants in their official capacities be dismissed without prejudice and Plaintiff's claims against Defendants in their individual capacities be dismissed with prejudice for failure to state a claim. Docket No. 78.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff received the Report on December 9, 2022 (Docket No. 79), but he did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine

whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, it is **ORDERED** that the Magistrate Judge's Report (Docket No. 78) is **ADOPTED**. It is further **ORDERED** that Plaintiff's claims against Defendants in their official capacities are **DISMISSED WITHOUT PREJUDICE**. It is finally **ORDERED** that Plaintiff's claims against Defendants in their individual capacities are **DISMISSED WITH PREJUDICE**.

So **ORDERED** and **SIGNED** this **12th** day of **January, 2023**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE